

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
DANYELL THOMAS, RASHAUN F. FRAZER, :
ANDRAE WHALEY and ELENI MIGLIS, :
individually and on behalf of all other employees :
similarly situated :

Plaintiffs

v.

Civil Action No. 16-cv-8160

BED BATH AND BEYOND, INC.

Defendant.

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:
DECLARATION OF TINA SUOJANEN

I, Tina Suojanen, based on my personal knowledge of the facts stated herein, testify by
Declaration as follows:

1. I am over the age of 18 and am otherwise competent to testify to the matters
contained in this Declaration, and if so called, would testify to the facts below.

2. All of the statements in this Declaration are true and accurate to the best of my
knowledge.

3. The facts set forth in this Declaration are based on my own personal knowledge.

4. I became employed by Bed Bath and Beyond Inc. ("BBB") in 1989 as a Cashier.
Over the years I have held numerous positions with the Company. In 2015, I became the Vice
President of Human Resources Operations which is my current role.

5. In my current capacity as Vice President of Human Resources Operations, I am
responsible for supporting the field Human Resources personnel in associate relations and
Human Resources services.

6. BBB employs over 45,000 employees across approximately 1,000 stores throughout all fifty (50) states.

7. BBB organizes its stores by region. There are seven (7) Regions covering various parts of the country: (i) Canada-Northwest; (ii) Central; (iii) Mid-Atlantic; (iv) Midwest; (v) Northeast; (vi) Southeast; and (vii) West.

8. Each of the seven (7) Regions is overseen by a Regional Vice President. Reporting to the Regional Vice President is a Regional Manager.

9. Each of the seven (7) Regions also has its own Human Resources function overseen by a Regional Human Resources Director, except for the Northeast Region which has two (2) Regional Human Resources Directors. Reporting to the Regional Human Resources Director are Regional Human Resources Managers.

10. The seven (7) Regions are further divided into 100 different Districts. Each District has a District Manager, who reports to the Regional Manager. Each District also has a District Human Resources Manager, who also reports to the District Manager with oversight by the Regional Human Resources Manager.

11. The Northeast Region has fifteen (15) Districts and encompasses stores in Connecticut, Maine, New Hampshire, New York, Rhode Island, Massachusetts, Vermont, and three (3) stores in New Jersey. The remaining 35 New Jersey stores are in the Mid-Atlantic Region.

12. Of the fifteen (15) Districts in the Northeast Region, New York City is its own District. Unlike other Districts, the New York City District has its own separate Regional Human Resources Director and effectively functions as its own Region. There are seven (7) stores in the New York City District.

13. In addition to the New York City District, the State of New York has eight (8) other Districts, for a total of nine (9) Districts in New York state.

14. There are 63 total stores in the State of New York across the nine (9) Districts, which employ over 3,500 employees.

15. New Jersey has five (5) Districts, one (1) in the Northeast Region and four (4) in the Mid-Atlantic Region. There are 38 total stores in the State of New Jersey across these five (5) Districts.

16. There are four (4) Districts in Connecticut, all of which are in the Northeast Region. Across these four (4) Districts, there are 18 total Connecticut stores.

17. BBB differentiates between its stores by, among other things, sales volume.

18. One of the Company's highest volume stores is Store 42, which is in the Chelsea neighborhood of New York City. Store 42 employs approximately 350 employees, including approximately twelve (12) Assistant Store Managers and approximately eighteen (18) Department Managers. The number of employees varies from time to time based on hiring or attrition.

19. Other very high volume stores (which includes Store 361 in New York City) range in size from 50,000 square feet to over 100,000 square feet and employ on average approximately 150 employees. Typically, a very high volume store has anywhere from three (3) to nine (9) Assistant Store Managers, six (6) to 17 Department Managers, and 110 to 175 hourly associates.

20. High volume stores range in size from 24,000 square feet to 80,000 square feet and employ anywhere from 50 to 80 employees on average, typically with approximately three (3) to five (5) Assistant Store Managers and two (2) to four (4) Department Managers.

21. Mid volume stores range in size from 18,000 square feet to 65,000 square feet and employ anywhere from 25 to 35 employees on average, typically with approximately two (2) to three (3) Assistant Store Managers and one (1) or two (2) Department Managers.

22. Low volume stores range in size from 18,000 to 28,000 square feet and typically employ approximately 15-20 employees, with one (1) or two (2) Assistant Store Managers and zero or (1) Department Manager.

23. BBB's stores each vary in size, operation, and number of employees. The variances between stores are due to, among other things, regional variations, sales volume, and the local competitive environment.

24. Each store has a Store Manager, who is responsible for the operation of the entire store.

25. BBB has a decentralized structure. Local management (including Store Managers) possess a high level of independence and autonomy in how they run their stores.

26. BBB encourages local management and Store Managers to focus on changing trends in their geographic area and to tailor their stores' merchandise mix to the needs of the local customers.

27. Reporting to the Store Managers are Assistant Store Managers. The Company has two different types of Assistant Store Managers: Operations Managers and Merchandise Assistant Managers.

28. The job requirements for both Operations Managers and Merchandise Assistant Managers include: (i) directing the daily activities of Department Managers and hourly associates; (ii) training and development of staff; (iii) participating in interviewing and hiring of hourly associates; and (iv) counseling, disciplining, and assisting in terminations.

29. In addition to their general responsibilities described above, Operations Managers are also responsible for: (i) ensuring that area of the store where customers' purchases are transacted (referred to as the "front end") is operating according to proper procedures through management of staff; (ii) ensuring that the area of the store where merchandise is received and shipped out of (referred to as the "back end") is operating according to proper procedures through management of staff; (iii) performing and/or overseeing new hire associate orientations; (iv) processing of new hire/benefits paperwork; and (v) scheduling associates' shifts within the store.

30. In addition to their general responsibilities described above, Merchandise Assistant Managers are also responsible for the hourly associates who work on the store floor in the various departments. At any given time, the number of hourly associates working on the floor can range from two (2) to 118, depending on the size of the store.

31. Since at least 2010, Assistant Store Managers in California became classified as non-exempt and are paid hourly. Assistant Store Managers in Alaska have always been classified as non-exempt and are also paid hourly. All Assistant Store Managers across the other 48 states are classified as exempt employees and are paid a salary.

32. Upon a preliminary review, BBB believes there are approximately 4,000 putative class members in the Assistant Store Manager class in over 850 stores nationwide, excluding California and Alaska.

33. Below the Assistant Store Manager position are Department Managers. Department Managers are responsible for overseeing a specific department or area of the store. There are different types of Department Managers, which correspond to departments in the store. The different types of Department Managers include, among others, Customer Service

Managers, Front End Managers, Receiving Managers, Freight Managers, Hardside Managers, and Softside Managers. Certain stores also have Department Managers of specialty departments such as Wedding, Fine China, or Gourmet Foods departments.

34. All Department Managers are classified as non-exempt employees and are paid overtime for all hours worked over 40.

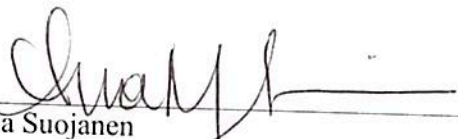
35. Prior to the period in or around March 2015, Department Managers in New York, New Jersey, and Connecticut were compensated pursuant to the Fluctuating Workweek methodology ("FWW"). The FWW is also referred to as "coefficient" overtime pay.

36. Upon preliminary review of the number of potential class members for the Department Manager class during the relevant time period, there were approximately 58 Department Managers in Connecticut, 205 Department Managers in New Jersey, and 348 Department Managers in New York, approximately 150 of which were in New York City stores.

37. Today, the Company employs approximately 1,400 Department Managers.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7 day of April 2017.

By: 
Tina Suojanen
Vice President, Human Resources Operations
Bed Bath and Beyond Inc.